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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE  
  
UNITED STATES OF AMERICA, )  
 )  
PLAINTIFF, )  
 )  
vs. ) No. CR 15-00595-RGK  
 )  
ANGELO HARPER, JR., )  
 )  
DEFENDANT. )

REPORTER'S TRANSCRIPT OF CHANGE OF PLEA  
LOS ANGELES, CALIFORNIA  
TUESDAY, JULY 12, 2016  
10:26 A.M.

APPEARANCES:

FOR PLAINTIFF: OFFICE OF THE UNITED STATES ATTORNEY  
BY: GEORGE E. PENCE, IV  
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FOR DEFENDANT: FEDERAL PUBLIC DEFENDER'S OFFICE  
BY: RACHEL A. ROSSI  
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SANDRA MacNEIL, CSR 9013, RPR, CRR, RMR  
Official Court Reporter, U.S. District Court  
255 East Temple Street, Room 181-F  
Los Angeles, CA 90012  
213.894.5949

1 LOS ANGELES, CALIFORNIA; TUESDAY, JULY 12, 2016

2 10:26 A.M.

3 - - - -

4 THE COURT: Okay. Mr. Harper, your client (sic) has  
5 indicated that you wish to go ahead and enter a plea of guilty  
6 to Count 2 and Count 3 of the indictment.

7 Is that what you want to do?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. You do understand you've got a  
10 right against self-incrimination. That means nobody can force  
11 you to plead guilty or say anything that might incriminate you.

12 If you pled guilty to Count 2 and Count 3, you'd be giving  
13 up your right against self-incrimination as to Count 2 and  
14 Count 3. You understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: And understanding that, do you waive and  
17 give up your right against self-incrimination?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Before I take your plea, I've gotta  
20 make certain findings for the record, and in order to do that,  
21 I've gotta ask you some questions, so let me put you under oath  
22 at this time.

23 THE CLERK: Can you please raise your right hand to  
24 the best of your ability.

25 Do you solemnly swear that the answers you make to any

1 questions asked of you by the Court shall be the truth, the  
2 whole truth, and nothing but the truth, so help you God?

3 THE DEFENDANT: Yes.

4 THE CLERK: Thank you.

5 THE COURT: What is your true legal name, sir?

6 THE DEFENDANT: Angelo Gene Harper, Jr.

7 THE COURT: Okay. And do you go by any other name?

8 THE DEFENDANT: A.J.

9 THE COURT: Okay. What city do you live in?

10 THE DEFENDANT: Moreno Valley.

11 THE COURT: How old are you now?

12 THE DEFENDANT: 21.

13 THE COURT: How much education or schooling have you  
14 received?

15 THE DEFENDANT: I completed high school, then attended  
16 college, and then I'm right now currently attending college  
17 incarcerated.

18 THE COURT: Then let me ask you -- and one of the  
19 reasons I asked that last question is, have you been able to go  
20 over all the documents with your attorney?

21 THE DEFENDANT: Yes.

22 THE COURT: And you understand them fully, what you're  
23 being charged with?

24 THE DEFENDANT: Yes.

25 THE COURT: And you're satisfied with her advice?

1 THE DEFENDANT: Yes.

2 THE COURT: And I want to make sure that you do  
3 understand not only all the documents but everything that's  
4 going on here today. So as we go through this process, if  
5 there's anything you don't understand, any questions you might  
6 have, anything you want explained to you, will you please stop  
7 me and make sure that I explain it to you?

8 THE DEFENDANT: Okay.

9 THE COURT: Okay. Any history in your background of  
10 treatment for mental illness or addiction?

11 THE DEFENDANT: When I was in, like, elementary school  
12 I took medication for ADHD, but that stopped, like, in middle  
13 school.

14 THE COURT: Okay. So you're not taking that now?

15 THE DEFENDANT: No.

16 THE COURT: In fact, you're not -- are you on any type  
17 of medication, prescription medication, pain medication, any  
18 type of drugs, anything at all that would affect your ability  
19 to understand what we're doing here today?

20 THE DEFENDANT: No.

21 THE COURT: Okay. They've alleged here in Count 2 a  
22 violation of Title 18 of the United States Code, Section 2252A,  
23 sub (a)(2)(A), and in Count 3, a violation of Title 18 of the  
24 United States Code, Section 2252A, sub (a)(5)(B).

25 At this time I'm going to have the government explain what

1 elements they would have to prove to convict you of those two  
2 sections, and I'm going to ask you to listen very carefully so  
3 you understand what elements they would be required to prove.

4 Counsel.

5 MR. PENCE: Your Honor, the government would be  
6 required to prove that the defendant: One, knowingly  
7 distributed child pornography, that is, a visual depiction of a  
8 minor engaged in a sexual act, sexually explicit conduct; two,  
9 that that visual depiction had been mailed using any means and  
10 facility of interstate and foreign commerce and had been  
11 shipped and transported in and affecting interstate and foreign  
12 commerce by any means, including by computer, knowing that the  
13 child -- that the images were of child pornography.

14 THE COURT: That's as to Count 2?

15 MR. PENCE: Two, on the distribution.

16 THE COURT: Okay. And on Count 3?

17 MR. PENCE: On Count 3, Your Honor, which is  
18 possession of child pornography, the government must establish  
19 that defendant Angelo Harper knowingly possessed at least one  
20 image of child pornography as defined in Title 18, United  
21 States Code, Section 2256B(a), which involved a visual  
22 depiction -- a sexually explicit visual depiction of a minor  
23 under the age of 18, and that that visual depiction had been  
24 mailed and shipped and transported using any means and facility  
25 of interstate and foreign commerce and in and affecting

1 interstate and foreign commerce by any means.

2 THE COURT: Okay. You understand what elements the  
3 government would have to produce at trial in order to convict  
4 you of these two offenses?

5 THE DEFENDANT: Yes.

6 THE COURT: Now I'm going to have them state what  
7 facts --

8 And I have a statement of facts here. I don't know if  
9 they're the ones you're going to be using or not, Counsel.

10 But I'm going to have the government state what facts they  
11 would present if they went to trial to prove these elements,  
12 and I want you to listen very carefully, because when they're  
13 through, I'm going to ask you whether you admit these facts to  
14 be true.

15 Counsel.

16 MR. PENCE: Your Honor, may I add one additional  
17 element onto the possession charge --

18 THE COURT: Yes.

19 MR. PENCE: -- just to be sure I'm clear with the  
20 defendant.

21 That element is that the defendant knew that the  
22 production of the visual depiction involved the use of a minor  
23 in sexually explicit conduct.

24 THE COURT: Okay. You understand that's one of the  
25 elements?

1 THE DEFENDANT: Yes.

2 THE COURT: Sir?

3 MR. PENCE: Yes.

4 THE COURT: No.

5 Mr. Harper, you understand?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. Counsel, now if you could state  
8 what facts you would present if you went to trial to prove  
9 those elements.

10 And again, listen very carefully to this, okay?

11 MR. PENCE: Your Honor, the government would prove  
12 that on or about -- with respect to Count 2, distribution of  
13 child pornography, the government would prove that on or about  
14 October 7, 2015, in Riverside County, within the Central  
15 District of California, Mr. Angelo Harper, Jr., knowingly  
16 distributed a video which he knew contained a visual depiction  
17 of a minor engaged in sexually explicit conduct over the  
18 Internet, a means and facility of interstate and foreign  
19 commerce, using the Kik messaging application. Mr. Harper knew  
20 the video contained matters showing minors engaged in sexually  
21 explicit conduct and that the production of the video involved  
22 the use of a minor engaged in sexually explicit conduct. The  
23 video had been transported in interstate or foreign commerce by  
24 computer.

25 THE COURT: Okay. And as to Count 3?

1 MR. PENCE: With respect to Count 3, possession of  
2 child pornography, the government would show that on or about  
3 January 16, 2014, in Riverside County, in the Central District  
4 of California, Angelo Harper, Jr., knowingly possessed an image  
5 that depicted a minor engaged in sexually explicit conduct.  
6 Mr. Harper knew that the image was of a minor engaged in  
7 sexually explicit conduct and that the production of the image  
8 involved the use of a minor engaged in sexually explicit  
9 conduct. The image had been transported in interstate and  
10 foreign commerce by computer.

11 THE COURT: Okay. So these are the facts the  
12 government says they would present if they went to trial.

13 You understand these facts?

14 THE DEFENDANT: Yes.

15 THE COURT: And you admit these facts to be true?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, as to each count, the maximum and  
18 minimum sentence under the statutes --

19 And Counsel, you've got that. I don't have that.

20 MR. PENCE: I do, Your Honor. Would you like us to  
21 read it into the record, Your Honor?

22 THE COURT: Yes, please.

23 Listen carefully. He's going to be telling you what the  
24 maximum sentences are and the minimum sentences are under the  
25 statutes.



1 Okay, Counsel.

2 MR. PENCE: Your Honor, under Count 2, which is  
3 distribution of child pornography, the maximum sentence is 20  
4 years; the maximum fine is \$250,000. There is a maximum term  
5 of supervised release of a lifetime of supervised release, and  
6 there is a mandatory minimum sentence of five years, and there  
7 is a mandatory special assessment of \$100, Your Honor.

8 THE COURT: And that's as to Count 2.

9 MR. PENCE: Count 2, Your Honor.

10 I'm sorry, let me continue with Count 3, which is  
11 possession of child pornography. That count contains a maximum  
12 sentence of 20 years, a maximum fine of \$250,000, a maximum --  
13 a lifetime of supervised release, a mandatory special  
14 assessment of \$100.

15 THE COURT: Okay. So, now, Counsel, I'm going to ask  
16 you to do a little bit of mathematics and state what the  
17 maximum sentence, total maximum sentence would be for both  
18 counts.

19 MR. PENCE: Excuse me, Your Honor, may I have one  
20 moment to confer with counsel?

21 THE COURT: Sure.

22 And Counsel, I'm asking you also, if you'd listen  
23 carefully. If there's any disagreement, let me know. Let the  
24 Court know.

25 MS. ROSSI: Yes, Your Honor.

1 MR. PENCE: Okay. So, Your Honor, the maximum under  
2 both counts would be 50 years maximum sentence, maximum fine of  
3 \$500,000, supervised release of lifetime, a mandatory special  
4 assessment of \$200. And the mandatory minimum sentence would  
5 be five years.

6 MS. ROSSI: May I have a moment with counsel?

7 THE COURT: Sure, you bet.

8 *(Counsel conferred privately.)*

9 MR. PENCE: Excuse me, Your Honor. Counsel has  
10 conferred with me. Just one moment. I'm sorry, Your Honor,  
11 the maximum sentence would be 40 years, not --

12 THE COURT: That's what I thought.

13 MR. PENCE: Yeah.

14 THE COURT: It's 20 and 20.

15 MR. PENCE: 20 and 20. My arithmetic was poor.

16 THE COURT: So you understand now what the maximum  
17 sentence could be under the statute?

18 THE DEFENDANT: Yes.

19 THE COURT: And what the minimum sentence would be?

20 THE DEFENDANT: Yes.

21 THE COURT: Now, they mentioned supervised release.  
22 Supervised release is that period of time where, if you did  
23 time in custody and then were released on supervision and you  
24 violated the terms and conditions of that supervision, you  
25 could be returned to court and get additional time on your

1 violation over and above what you might initially get.

2 You understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Also, if you happen to be on parole,  
5 probation, or supervised release on some other matter other  
6 than this, a plea in this matter could result in a violation of  
7 that parole, probation, or supervised release, and that court  
8 could give you time on their case independently of what might  
9 happen here.

10 You understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: There are also certain governmental rights  
13 that can be affected by your plea, such as your right to vote,  
14 your right to serve as a juror, your right to own a firearm.  
15 It can affect citizenship in some cases and result in  
16 deportation in some cases. It can affect welfare rights for  
17 you or your family, such as food stamps.

18 You understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: And also, I don't know if you mentioned  
21 this in the maximum sentences, but there is a -- one of the  
22 conditions would be a lifetime, I believe it is, registration.  
23 Is that correct, Counsel?

24 MR. PENCE: As sexual offender?

25 THE COURT: Yes, as a sexual offender.

1 MR. PENCE: Yes.

2 THE COURT: You understand that would be one of the  
3 consequences?

4 THE DEFENDANT: Yes.

5 MR. PENCE: Your Honor, may I add one thing before you  
6 proceed?

7 THE COURT: Yes.

8 MR. PENCE: Just to be clear with respect to the  
9 distribution count, I articulated earlier that the defendant  
10 must know, as one of the elements, that the production  
11 involved -- that the defendant knew that the production of the  
12 visual depiction involved the use of a minor in sexually  
13 explicit conduct. That is true for distribution as well: The  
14 defendant must know that the production of the visual depiction  
15 involved the use of a minor in sexually explicit conduct.

16 THE COURT: You understand that element?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, I talked to you earlier about your  
19 right against self-incrimination. There's a few other rights  
20 I've gotta go over with you. I'm sure you've talked them over  
21 with your attorney, but let me go through them.

22 The first one is, you have a right to be presumed innocent  
23 until and unless the government can prove their case to 12  
24 jurors, who unanimously would have to agree upon your guilt  
25 beyond a reasonable doubt before you could be found guilty.

1 Until and unless they do this, you've got a right to be  
2 presumed innocent. Obviously, if you plead guilty, you're not  
3 going to be presumed innocent anymore.

4 You understand that right?

5 THE DEFENDANT: Yes.

6 THE COURT: And you're giving up that right?

7 THE DEFENDANT: Yes.

8 THE COURT: You also have a right to have an attorney  
9 at all stages of the proceedings. You have a right to have a  
10 public trial, a speedy trial, a right to see, hear, and  
11 cross-examine the witnesses the government would call to prove  
12 their case against you. You'd have a right to present defenses  
13 in your own behalf, subpoena witnesses free of charge to you  
14 into court to testify in your defense. At trial you'd have a  
15 right to take the stand and testify in your own behalf if you  
16 wished, or to remain silent, not take the stand, and nobody  
17 could draw any adverse inference from the fact you did not take  
18 the stand.

19 All these rights you'd have at trial, you'd be giving up  
20 if you plead guilty, because there's not going to be a trial as  
21 to those two issues. You understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: And do you waive and give up your rights  
24 as to those two counts?

25 THE DEFENDANT: Yes.

1 THE COURT: And counsel joins?

2 MS. ROSSI: Yes, Your Honor.

3 THE COURT: Now, in this matter there's no plea  
4 agreement on it, which would mean that the Court, if you pled  
5 on this, would go ahead and send this out to the probation  
6 department, get all their information in first, hear from your  
7 attorney, hear from the AUSA, hear from you, if you wished,  
8 before we'd determine what the sentence is. And you know what  
9 the range is, but there's no agreement as to what sentence  
10 would be.

11 You understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. Has anybody made any promises to  
14 you, or threats or assurances to get you to plead guilty to  
15 either of these two counts?

16 THE DEFENDANT: No.

17 THE COURT: Then are you doing this freely and  
18 voluntarily because you feel at this time it's in your best  
19 interest?

20 THE DEFENDANT: Yes.

21 THE COURT: Is there any questions that you want to  
22 ask me before I take your plea to these two counts?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Then as to violation of Title 18 of the  
25 United States Code, Section 2252A, sub (a)(2)(A), as alleged in

1 Count 2, how do you plead?

2 THE DEFENDANT: Guilty.

3 THE COURT: And as to Title 18 of the United States  
4 Code, Section 2252A, sub (a)(5)(B), as alleged in Count 3, how  
5 do you plea?

6 THE DEFENDANT: Guilty.

7 THE COURT: And counsel concur in the plea?

8 MS. ROSSI: Yes.

9 THE COURT: And stipulate there's a sufficient factual  
10 basis to allow me to accept the plea?

11 MS. ROSSI: Yes.

12 THE COURT: The Court will find a knowing,  
13 intelligent, free and voluntary waiver of his rights by the  
14 defendant as to those two counts; would find that he's had  
15 explained to him the consequences and possible consequences of  
16 his plea; would find a factual basis based on the stipulation  
17 of counsel and the admission of the defendant to the facts  
18 stated here in court; and in this matter the Court would accept  
19 the plea of guilty to Count 2 and Count 3.

20 And I guess we still have the trial coming up, but we  
21 should put this over for sentencing sometime down the road, I  
22 guess.

23 MR. PENCE: That makes sense, Your Honor.

24 THE COURT: What time are we looking at, Sharon?

25 THE CLERK: Sentencing availability would be Monday,

1 October 17, at 1:30 p.m.

2 THE COURT: How does that sound?

3 MS. ROSSI: That works for the defense.

4 THE COURT: Okay. That's agreeable with you, sir?

5 THE DEFENDANT: Yes.

6 THE COURT: And that's agreeable with the AUSA?

7 MR. PENCE: That works for the government as well,  
8 sir.

9 THE COURT: Okay. We'll put it down on that date, and  
10 if it needs to be moved, we can adjust it later, but we'll put  
11 it down on that date, which is October 17th at 1:30 p.m., for  
12 sentencing.

13 Anything else I can do for either side?

14 MS. ROSSI: Your Honor, I would just let the Court  
15 know that the defense is still urging the government to dismiss  
16 Count 1, because it doesn't change the guidelines. The  
17 guidelines are above the mandatory minimum on Count 1, and  
18 Mr. Harper is facing consecutive life sentences in state court.  
19 So at this point, I believe the government intends to proceed  
20 on Count 1, but just to inform the Court, we are urging them to  
21 dismiss.

22 THE COURT: Okay. And I'm also assuming that one of  
23 the underlying factors on pleading to Count 2 and Count 3 is  
24 acceptance of responsibility?

25 MS. ROSSI: Yes, your Honor.



1 And for reasons that I can't share, Mr. Harper is unable  
2 to plead to Count 1.

3 THE COURT: Okay. Thank you very much.

4 MS. ROSSI: Thank you, Your Honor.

5 MR. PENCE: Thank you, Your Honor.

6 THE CLERK: All rise.

7 Court is in recess.

8

9 *(Proceedings concluded at 10:41 a.m.)*

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*CERTIFICATE*

*I hereby certify that pursuant to Section 753,  
Title 28, United States Code, the foregoing is a true and  
correct transcript of the stenographically reported proceedings  
held in the above-entitled matter and that the transcript page  
format is in conformance with the regulations of the  
Judicial Conference of the United States.*

*Date: JULY 15, 2016*

*/S/ SANDRA MACNEIL*

*Sandra MacNeil, CSR No. 9013*